

DELTA PROTECTION COMMISSION

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**AGENDA ITEM # 7**

March 25, 1999

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Executive Director's Report

Update on Matters from the Last Meeting:

1. Survey on Pumpouts in Contra Costa County and the Delta: There is no new information on the survey.
2. Fern Headreach Conservation Easement: There is no new information about the proposed conservation easement.
3. Annual Report: The annual report was sent for review by the Secretary of Resources and the Governor; the annual report is still at the Secretary's Office.
4. Proposed Legislation: The proposed legislative amendments have also be sent for review by the Secretary for Resources and the Governor; the proposals are still at the Secretary's Office.
5. Timeline for Processing Regulations: The Commission asked the timeline for processing regulations with Office of Administrative Law (OAL) under the Administrative Procedures Act:

Minimum two months: Prepare notice of proposed action, initial statement of reasons (showing necessity, authority, etc), proposed regulation language and estimated costs.

60 Days Before Hearing: Submit written materials to OAL

45 Days Before Hearing: Publish notice and mail notice of public hearing

Hold Three Public Hearings

One to two months: If regulatory language is revised, open a 15 day public notice and comment period for minor revisions within the scope of the original notice, or if major revisions, re-notice.

Take action to adopt final language.

One to two months: Prepare and submit final rulemaking file including all notices and initial documents; previous drafts; final language; final statement of reasons; summary and response to comments; copy of all comments and explanation of any rejected small business alternatives.

Six weeks: OAL review time is 30 working days.

One month or four months: If OAL approves, submit to Secretary of State, effective in 30 calendar days. If OAL disapproves, then Delta Protection Commission has 120 days to rewrite and resubmit with non-substantive changes--if significant changes, then must re-notice and readopt; or if OAL disapproves, within 10 days request review by the Governor's Legal Secretary.

New Matters:

1. **Resources Agency:** Attended meeting of all Directors in the Resources Agency. All proposed legislation and reports for public release must go through the Secretary and the Governor prior to release.
2. **Bradford Island and Fisherman's Cut:** Several large groupings of floating derelict vessels, barges, and other items are now moored in Fisherman's Cut. This is of great concern to the Reclamation District which states it cannot reach the levees from the water side for maintenance and if there was an emergency for repair. In addition, there are many parcels with not to code structures and collections of junked cars and other items on the island itself. The County is spearheading a clean-up program, with what help can be provided by State and federal agencies. Issues of concern are possible leaks of hazardous materials and hazards to navigation. Staff has attended meetings and went on a site visit.
3. **Ad Hoc Recreation Group:** CALFED recognizes that it must address recreation in its environmental document. To assist CALFED and to help develop a proactive vision for recreation in the Delta as CALFED implements its programs, a group has been meeting, and will continue to meet and hold public meetings to gather input. Participants include staff of Delta Protection Commission, Department of Boating and Waterways, Department of Parks and Recreation, representatives of boating groups, representatives of fishing groups, representatives of the Delta Chambers, and other interested parties.

4. **North Delta Flooding:** In addition, CALFED has reassigned to the director of the Levees and Channels Program and stepped up attention to the North Delta flooding issue. This topic was studied by the Department of Water Resources in the 80's and was the subject of a Draft environmental documents released in 1990. New actions associated with study and resolution of North Delta Flooding include: upstream acquisition and changes of land management underway and proposed by the Cosumnes Preserve; a Corps study of the Cosumnes and Mokelumne Rivers; a program for watershed management of the lower Mokelumne River; studies and adoption of a proposed action program by Sacramento County; and modeling and studies undertaken by CALFED staff. CALFED will be managing a committee to develop a regional solution to flooding in the North Delta area.
5. **Delta In-Channel Islands Work Group Pilot Project:** The Delta Protection Commission staff has been participating in a work group which is sponsoring a pilot project to install and evaluate "alternative" methods of protecting and enhancing the Delta In-Channel Islands--the last remnants of the natural wetland habitat in the Delta--from erosion. A Category III grant received last year funded design work, environmental review, and permitting for the project. The project locations are: three channel islands around Webb Tract and on the eastern end of Little Tinsley Island. The group will be submitting a Category III application for Phase II funding on April 16.
6. **San Francisco Estuary Project Biennial Conference:** Lori Calmurro and I each attended a day of the San Francisco Estuary Project Biennial Conference. The theme was "the Rehabilitation of the Estuary and its Watersheds". Very Interesting and a lot of discussion of the problems and proposed solutions to the degraded habitat issues which are the core of the CALFED Ecosystem Restoration Program.
7. **Mitten Crab Workshop:** Lori Calmurro attended a Mitten Crab Workshop in Sacramento. Several agencies are working together to draft a management plan to prevent additional spreading of the Crab population, to detect additional populations, to reduce impacts of the crabs, and to control the existing population. The draft management plan will be presented to the federally-chartered Aquatic nuisance Species Task Force in June for consideration of possible funding.

Other Matters of Interest:

1. The January-February Issue of Western Water covers "CALFED and the Delta Fix" (contact Water Education Foundation (916)444-6240).
2. Right to Farm Ordinance in Iowa was the subject of a lawsuit and the Iowa Supreme Court (Borman v Board of Supervisors (584 N.W.2d 309)) declared that the State's right to farm law was an unconstitutional "taking" of private property because the law immunizes farmers against nuisance suits by neighbors. On February 22, 1999, the U.S. Supreme Court let the decision stand by denying certiorari.